IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CIVIL REVISION 2680 OF 2005

DATE OF DECISION :24-10-2006

Harwinder Singh v Kuldeep Kaur

CORAM : HEMANT GUPTA,J.

Mr.R.C.Dogra, Senior Advocate, with Mr.S.K.Bawa, Advocate, for the petitioner

Mr.Hitesh Kapilish, Advocate, for the respondent

The challenge in the present petition is to the order passed by the learned Rent Controller on 09-04-2005 whereby petition filed by the respondent under Section 13-B of the East Punjab Urban Rent Restriction Act, 1949 as amended was allowed.

It is the case of the respondent-landlady that she is an Non-Resident Indian and has gone to Austaria along with her husband but now she and her husband are old and intend to lead a retired life and, therefore, she has returned to India in order to live in India. It has been found by the learned Rent Controller , after the application for leave to defend was allowed and evidence led ,that there are 5 rooms on the ground floor, one tin roof kitchen on the first floor. That the landlady intends to add more rooms on the ground floor . She has also got vacated 3 shops which have been converted as part of residential premises. Therefore, it was found that the premises are required for bonafide use as even daughter of the landlady along with her children is also going to reside with her.

Learned counsel for the petitioner has vehemently argued that the requirement pleaded in the petition was of landlady alone whereas finding has been recorded by the Rent Controller that the premises are required for her daughter and her family as well. A perusal of the site plan Exhibit P-4 shows that small area measuring 8'x14' alone is in possession of the petitioner. The remaining building is in possession of the landlady. The landlady has a right to lead peaceful life comfortably in her house and not that she must share a part of accommodation with the tenant.The

landlady is entitled to privacy and comforts of her house. Therefore, I do not find any illegality or irregularity in the findings recorded by the learned Rent Controller which may warrant interference by this Court.

Dismissed.

However, the order of ejectment shall not be executed for a period of 3 months from today provided petitioner furnishes undertaking by way of affidavit before the Rent Controller within 2 weeks from today to handover the physical possession of the property to the landlady on or before January 31,2007,and on payment the entire arrears of rent within 2 weeks. The further monthly rent shall be payable by 10th of each month.

{Hemant Gupta}
Judge

24-10-2006
* Mandeep *

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CIVIL REVISION 4307 OF 2005

DATE OF DECISION : 24-10-2006

The Gurgaon Central Coop.Bank v P.O.Labour Court etc.

Mr.Subhash Ahuja, Advocate, for the petitioner

Mr.Pankaj Jain, Advocate, for the respondents

HEMANT GUPTA, J.

The challenge in the present revision petition is to the order dated 13-07-2005 whereby an application filed by the petitioner for setting aside the ex-parte proceedings initiated on 06-08-2003 was dismissed.

The learned Labour Court found that reference is pending since the year 1999 and the case is fixed for filing of written statement since 20-09-2001.It has been found that 06-08-2003 was the date fixed for filing written statement subject to payment of Rs.1000/-as costs but since neither costs had been paid nor written statement had been filed, therefore, ex-parte proceedings have been rightly initiated against the petitioner . Therefore, the application was found to be without any merit.

Learned counsel for the petitioner has contended that though there is delay in filing the written statement but it is undertaken that the petitioner shall file written statement on the date fixed and also compensate the respondent-workmen for the delay in filing of the written statement by way of payment of costs in additional costs as ordered by the learned Labour Court. It is also pointed out that no evidence has been led by the workmen even after initiating ex-parte proceedings against the petitioner.

Keeping in view the fact that no evidence has been led even though the ex-parte proceedings were initiated against the management on 06-08-2003, I deem it appropriate to set aside the ex-parte proceedings subject to payment of Rs.5000/-as costs. The parties through their counsel are directed to appear before the Labour Court on 27-11-2006 on which date the petitioner shall file its written statement and also shall pay costs of Rs.5000/-along with costs as imposed by the learned Labour

Court earlier. If written statement and costs are not paid on the said date, the ex-parte proceedings shall remain operative.

With the said direction, the present revision is disposed of.

{Hemant Gupta}
Judge

24-10-2006
* Mandeep *

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CIVIL REVISION 4823 OF 2004

DATE OF DECISION;24-10-2006

Gurpal Singh & another v Piara Singh & others

Mr.J.S.Brar, Advocate, for the petitioners

Mr.Kamaldeep Singh, Advocate, for respondent No.13

HEMANT GUPTA, J.

The plaintiffs are in revision aggrieved against the order dated 30-08-2003 whereby an application filed by the petitioners for correction of date ofdeath of deceased-Bohar Singh, Manjit Kaur and Lakhbir Singh as 31-12-1999 instead of 01-01-2000 was declined.

The learned trial Court has declined such application on the ground that it is an attempt to delay the proceedings and amendment cannot be allowed after the trial has commenced as the Court can allow amendment only after arriving at a conclusion that inspite of due diligence, the party could not raise the matter before commencement of the trial.

The reasoning given by the learned trial Court suffers from patent illegality and irregularity. The suit was filed on 15-02-2000 and, therefore, the amended provisions of CPC contained in Order 6 Rule 17 CPC are not applicable in respect of pleadings filed prior to the said amendment in terms of Section 16(2)(b) of Code of Civil Procedure(Amendment)Act,2002. The plaintiffs have sought declaration on account of the deaths of Bora Singh, Manjit Kaur and Lakhbir Singh. By amendment, the plaintiffs are not to gain anything except to bring the facts in correct perspective. Still further it is the plaintiff who has sought the correction of date of death.

Therefore, I am of the opinion that the order passed by the learned tiral Court decling the correction in the date of death is not sustainable in law.

Consequently, the said order is set aside. The petitioners are permitted to amend the pleadings so as to describe the date of death as 31-12-1999 instead of 01-01-2000.

Civil revision stands disposed of accordingly.

{Hemant Gupta}
Judge

24-10-2006
* Mandeep *